



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 15, 1998

Mr. Juan J. Cruz  
Escamilla & Poneck, Inc.  
1200 South Texas Building  
603 Navarro Street  
San Antonio, Texas 78205-1826

OR98-3143

Dear Mr. Cruz:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120610.

The Mathis Independent School District (the "district") received a request for information regarding a former district employee. You seek to withhold certain information responsive to the portion of the request asking for "[t]rue and correct copies of any documents executed between [the district] and [the former employee] that relate to his resignation from employment." You seek to withhold the information in question under section 552.103(a)(2) of the Government Code.

Section 552.103(a) excepts from required public disclosure information

- (1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and
- (2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

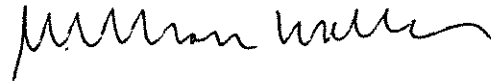
To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 (1991) at 1. The information at issue here is a "Settlement Agreement and Release" executed between the district and the individual whose resignation from the district was the subject

of the request. You have not demonstrated that there is pending or anticipated litigation to which the information in question relates. You do reference a "confidentiality clause" in the settlement agreement wherein the former district employee and the district "agree that the terms of this agreement are confidential and shall not be disclosed to third parties or made public except as required by any law governing the district or [the former employee], or as required by subpoena or court order."

It is well-established that information may not be protected from disclosure under the Open Records Act simply by virtue of the governmental body's agreeing to keep it confidential. Open Records Decision Nos. 585 (1991), 514 (1988). As you have not established any exceptions to release of the information at issue, you must release it.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker  
Assistant Attorney General  
Open Records Division

WMW/rho

Ref: ID# 120610

Enclosures: Submitted documents

cc: Mr. Jack W. Stamps  
Chief Investigator  
Investigations & Enforcement  
State Board for Educator Certification  
1001 Trinity Street  
Austin, Texas 78701-2603  
(w/o enclosures)